



# Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss.

COMMISSION ADJUDICATORY  
DOCKET NO. 457

## IN THE MATTER OF JOHN FORRISTALL

### DISPOSITION AGREEMENT

This Disposition Agreement (Agreement) is entered into between the State Ethics Commission (Commission) and John Forristall (Mr. Forristall) pursuant to §5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented to final Commission order enforceable in the Superior Court pursuant to G.L. c. 268B, §4(j).

On May 31, 1990, the Commission initiated, pursuant to G.L. c. 268B, §4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Mr. Forristall. The Commission has concluded its inquiry and, on March 12, 1992, by a majority vote, found reasonable cause to believe that Mr. Forristall violated G.L. c. 268A. The Commission and Mr. Forristall now agree to the following findings of fact and conclusions of the law:

1. Mr. Forristall was, during the time here relevant, a member of the Town of Winthrop Recreation Commission. As such, he was a municipal employee as that term is defined in G.L. c. 268A, §1(g). Mr. Forristall was Recreation Commission Chairman between 1986 and 1989. In July, 1989, he was not reappointed as a Recreation Commission member.

2. The Recreation Commission is a part-time, six-member board appointed by the board of selectmen to oversee the operation of the Recreation Department.

3. During the time here relevant, Mr. Forristall worked for Lamco Chemical Company (Lamco), a business located in Chelsea. Lamco manufactures janitorial supplies. Mr. Forristall was employed by Lamco as a salesman. He received a weekly salary, and on average, a 15% commission on any sales he made.

4. Between July 1, 1985 and June 30, 1989, the Town of Winthrop Recreation Commission purchased approximately \$7,500 in goods from Lamco.

5. Mr. Forristall was the salesman for Lamco on all of the above sales. Mr. Forristall earned approximately \$1,125 in commission on these sales.

6. Recreation Commission purchases occurred as follows: The Recreation Commission, with Mr. Forristall participating, would decide what janitorial supplies they needed. The Recreation Commission would then issue a purchase order to Lamco. A Recreation Commission designee would sign the purchase order. Lamco would deliver the product, with someone from the Recreation Commission signing the packing slip indicating receipt. Lamco would then send an invoice for payment to the Recreation Commission. The Recreation Commission would review and approve the invoice. A Recreation Commission designee would sign the invoice indicating it was approved by the Recreation Commission for payment. The invoice would then be placed on a schedule of bills payable by the Recreation Commission, which schedule would be signed by a member of the Recreation Commission indicating the Commission had approved all of the bills for payment. The schedule of bills along with the supporting bills themselves would go to the Board of Selectmen for approval and ultimate payment.

7. Mr. Forristall was substantially involved as a Recreation Commission member in virtually every decision

by the Commission to purchase goods from Lamco or pay Lamco bills. In addition, the majority of the Recreation Commission/Lamco purchase orders, packing slips, invoices, and schedules of bills payable (including Lamco invoices) were signed by Forristall as Recreation Commission Chairman.<sup>1/</sup>

8. Except as otherwise permitted in that section,<sup>2/</sup> G. L. c. 268A, §19 in relevant part prohibits a municipal employee from participating as such in a particular matter in which to his knowledge he or a business organization by which he is employed has a financial interest.

9. The various decisions and determinations by the Recreation Commission to purchase goods from Lamco, to signify the receipt of those goods, and to pay for those goods, were all particular matters.<sup>3/</sup>

10. Inasmuch as Mr. Forristall either collectively with other commissioners or individually made those purchasing and payment decisions, he participated<sup>4/</sup> in these particular matters.

11. Inasmuch as he made a commission on each sale and his employer, Lamco, made a profit on each sale, both he and a business organization by which he was employed had a financial interest in those particular matters. Mr. Forristall was, of course, aware of those financial interests at the time he so participated as described in &10.

12. Therefore, by participating in the purchasing and payment decisions as described above, Mr. Forristall repeatedly participated in particular matters as a Recreation Commission member in which to his knowledge either he or a business organization by which he was employed had a financial interest, thereby violating §19.

In view of the foregoing violations of G.L. c. 268A by Mr. Forristall, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Mr. Forristall:

1. that Mr. Forristall pay to the Commission the sum of \$1,500 as a civil penalty for violating G.L. c. 268A, §19;
2. that Mr. Forristall disgorge the economic benefit he received by violating G.L. c. 268A, §19, namely the \$1,125 in commissions he earned; and
3. that Mr. Forristall waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceeding to which the Commission is or may be a party.

**Date: October 21, 1992**

<sup>1/</sup>For example, of the 18 Recreation Commission/Lamco packing slips that were found in the town's records, 11 were signed by Mr. Forristall. Of the 53 Recreation Commission/Lamco invoices, Mr. Forristall signed 30.

<sup>2/</sup>None of the exceptions applies here.

<sup>3/</sup>"Particular matter," any judicial or other proceeding, application, submission, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, decision, determination, finding, but excluding enactment of general legislation by the general court and petitions of cities, towns, counties and districts for special laws related to their governmental organizations, powers, duties, finances and property. G.L. c. 268A, §1(k).

<sup>4/</sup>"Participate," participate in agency action or in a particular matter personally and substantially as a state, county or municipal employee, through approval, disapproval, decision, recommendation, the rendering of advice, investigation or otherwise. G.L. c. 268A, §1(j).